



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicants: Crescenzi et al. | 07/18/2008 | CKHLOK | 00000017 | 132755 | 10540449 |
| | 01 FC:1455 | | 200.00 | DA | |
| Serial No.: 10/540,449 | | Art Unit: | | | |
| | | 1624 | | | |
| Docket No.: ITR0046YP | | Examiner: | | | |
| Filed: June 22, 2005 | | Moore, Susanna | | | |
| For: TETRAHYDRO-4H-PYRIDO[1,2-a]PYRIMIDINES AND RELATED COMPOUNDS USEFUL AS HIV INTEGRASE INHIBITORS | | | | | |

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

By Merck & Co., Inc. Date 03-12-2008

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)

Sir:

This is a request for reconsideration of the patent term adjustment (PTA) indicated in the Notice of Allowance mailed January 23, 2008. This application is being submitted with the payment of the issue fee.

The Commissioner is authorized to charge the fee set forth in § 1.18(e) to Deposit Account No. 13-2755.

According to 37 CFR 1.702(a)(1), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application. The requirements under section 371 for this international application were fulfilled on June 22, 2005. A first office action was mailed on March 16, 2007, which constitutes 206 days of Patent Office delay under 37 CFR 1.703(a); i.e., the number of days from August 22, 2006 (14 months from filing) to March 16, 2007.

There were no circumstances constituting a failure of Applicants to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 CFR 1.704. Accordingly the correct PTA as of today is PTO Delay – Applicant Delay = 206 – 0 = 206 days.

The PTA determination of the Patent Office (copy enclosed) lists 206 days of Patent Office delay but incorrectly also lists 29 days of Applicant delay. Accordingly, the Patent Office PTA determination as of today is $\text{PTO Delay} - \text{Applicant Delay} = 206 - 29 = 177$ days. The determination of 29 days of Applicant delay is incorrect. According to the transaction history on Public PAIR (copy enclosed) an office action was mailed to Applicants on July 3, 2007. Applicants did not receive this mailing. The transaction history shows that a Notice of Restarted Response Period was mailed on August 3, 2007. Applicants received this mailing which was the office action. Applicants timely filed a complete response to this office action on November 2, 2007.

The Patent Office PTA determination of 29 days of Applicant delay is based upon the July 3, 2007 mailing of the office action which was not received by Applicants and which was superseded by the office action mailed August 3, 2007. The Image File Wrapper on Public PAIR (copy enclosed) shows that the July 3rd mailing of the office action was returned to the Patent Office as undelivered on July 11, 2007. There was no error in the correspondence address (copy of cover pages of the July 3rd and August 3rd mailings of the office action enclosed), so it is not clear why the action was returned by the Post Office as undeliverable. In any event, there was no delay due to Applicants.

It is further noted that the patent that issues from the subject application will not be subject to a terminal disclaimer.

Accordingly, it is requested that the PTA determination for this application as of today be changed to 206 days.

Respectfully submitted,
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Date: March 12, 2008